

3:22-mj-00170

DISTRICT OF OREGON, ss: AFFIDAVIT OF CHAD LAPP

Affidavit in Support of a Criminal Complaint and Arrest Warrant

I, Chad Lapp, being duly sworn, do hereby depose and state as follows:

Introduction and Agent Background

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) and have been since December 2014. My current assignment is to the Portland Division, Bend Resident Agency. I received 21 weeks of training at the FBI Academy in Quantico, Virginia. My responsibilities include the investigation of federal criminal offenses, to assault and firearm violations.

2. I submit this affidavit in support of a criminal complaint and arrest warrant for Francis Spino Jr. (SPINO), for the crimes of Assault by Strangulation, in violation of Title 18, United States Code § 113(a)(8), and Felon in Possession of a Firearm in violation of Title 18 United States Code § 922(g)(1). As set forth below, there is probable cause to believe, and I do believe, that SPINO, committed Assault by Strangulation, in violation of Title 18, United States Code, Section § 113(a)(8) and Felon in Possession of a Firearm in violation of Title 18 United States Code 922(g)(1).

3. I am a party to the investigation described herein. My knowledge of the matters described in this affidavit are the result of a combination of my own firsthand knowledge, review of police reports, as well as facts described to me by other law enforcement personnel assisting with the investigation. I have not included all information learned through this investigation. I have included information I believe is sufficient to establish probable cause for the criminal complaint and arrest warrant requested by this affidavit.

Applicable Law

4. Title 18, U.S.C. 113(a)(8), entitled “Assault by Strangulation,” provides, in relevant part, that “Whoever, within the special maritime and territorial jurisdiction of the United States, is guilty of an assault by strangling or attempting to strangle or suffocate shall be imprisoned for not more than 10 years.

5. Title 18 U.S.C. 922(g)(1), entitled “Felon in Possession of a Firearm,” provides, in relevant part, that “It shall be unlawful for any person who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding on year to possess a firearm or ammunition.”

Statement of Probable Cause

6. On September 26, 2022 at 6:11am, Officers of the Warm Springs Police Department were dispatched to 613 Tmsh, Warm Springs, Oregon responding to reports of a suicidal subject. When officers arrived they observed three females standing outside of the residence. The women were escorted by a responding officer to the police department. At the police department Detective Levi Dowty interviewed Adult Victim 1 (AV1).

7. AV1 told Detective Dowty that SPINO had been smoking “Oxys” for most of the night. I know from training and experience that oxys refer to oxycodone, a schedule II controlled substance. SPINO had been outside of the residence yelling and disturbing neighbors, as the neighbors had complained to her about Francis’ behavior. AV1 stated she was asleep in her bedroom when SPINO came into the room and climbed on top of her. SPINO grabbed her wrists and held her hands down. AV1 stated she tried to get away but SPINO held her down and made motions with a closed fist as if he were going to punch her. AV1 stated that she was eventually

able to get away from SPINO and attempted to leave the room. AV1 stated SPINO then grabbed her and threw her to the floor. SPINO then knelt on her chest with his knee and began to strangle her. AV1 stated that SPINO used both of his hands to strangle her, applying pressure to her neck, and impeding her breathing. AV1 stated that her vision became blurry, but she did not become unconscious.

8. AV1 stated that SPINO has two firearms, but believed he had traded one earlier in the night for illegal drugs. AV1 stated the firearm SPINO has at the residence looked like a pistol that has been modified and shortened.

9. AV1 and her two roommates, Adult Witness 1 (AW1) and Adult Witness 2 (AW2) were interviewed regarding home ownership. AV1 said that the home belongs to her and she has been paying a mortgage on it since 2013. AV1 said that there is no place in her home that she does not consider having ownership over. AV1 said that SPINO does not live at the residence but stays there “off and on.” AV1 stated that SPINO’s most recent stay has been approximately one-month long. In a telephone conversation with affiant, AV1 confirmed that she was in a dating relationship with SPINO.

10. A review of SPINO’s criminal history report indicated that he was previously convicted of Second Degree Murder, a felony, in the District of Oregon in case number 99-cr-00113 on June 12, 2000. SPINO is an enrolled member of the Confederated Tribes of Warm Springs.

11. On the morning of September 26, 2022, police attempted to contact SPINO at the AV1’s residence. SPINO initially refused to leave the residence. After an hours-long standoff involving police, the FBI and SWAT officers, SPINO exited the residence and was taken in to

custody on tribal assault charges. While conducting a consensual search of the residence, police recovered a .410 caliber modified pistol with a .45 round in the chamber.

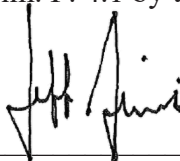
Conclusion

12. Based on the foregoing, I have probable cause to believe, and I do believe, that Francis Spino Jr. committed Assault by Strangulation, in violation of Title 18, United States Code, Section 113(a)(8) and Felon in Possession of a Firearm in violation of Title 18, United States Code, Section 922(g). Therefore, I request the issuance of a criminal complaint and arrest warrant.

13. Prior to being submitted to the Court, this affidavit, the accompanying complaint and the arrest warrant were all reviewed by Assistant United States Attorney (AUSA) Pamela Paaso, and AUSA Paaso advised me that in her opinion the affidavit and complaint are legally and factually sufficient to establish probable cause to support the issuance of the requested criminal complaint and arrest warrant.

Sworn IAW Fed. R. Crim. P. 4.1
CHAD LAPP, Special Agent
Federal Bureau of Investigation

Sworn in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone
at 4:25 pm. on September 26, 2022.



HONORABLE JEFFREY ARMISTEAD
United States Magistrate Judge